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FILED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

2022 MAY -5 P 3:30

Chaz Biami
Full Name (under which you were convicted), Petitioner,

551508
Prisoner Number

Fox Lake Correctional Institution
Place of Confinement

vs.

Warden Meisner
Authorized Person Having Custody of Petitioner, Respondent.

22-C-0544
Docket No. (to be supplied by Clerk)

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2254
BY A PERSON IN STATE CUSTODY

Caution: THIS IS NOT THE FORM TO BE USED, IF YOU CLAIM THAT YOUR FEDERAL SENTENCE OR CONVICTION IS UNLAWFUL, OR IF YOU ARE A PRETRIAL DETAINEE CHALLENGING YOUR PRECONVICTION CUSTODY, A FEDERAL PRISONER CHALLENGING THE EXECUTION OF YOUR SENTENCE OR AN ACTION TAKEN BY THE BUREAU OF PRISONS, OR A PERSON IN CUSTODY CHALLENGING AN IMMIGRATION-RELATED ORDER.

I. SUBJECT OF THIS PETITION

- A. Name and location of the state court that entered the judgment of conviction which you are challenging

Milwaukee Circuit Court, Branch 19

- B. Criminal docket or case number 2016CF2689

- C. Date of the judgment of conviction 04/03/2017

- D. Date of sentencing 03/31/2017

- E. Length of sentence 20 Years Initial Confinement and 10 Years Extended Super Vision

- F. In this case, were you convicted on more than one count or of more than one crime?

☒ Yes ☐ No

- G. Identify all crimes of which you were convicted and sentenced in this case

3 Counts of Intoxicated Use of a Motor Vehicle with repeat offender enhancers. Class F felonies.

3 Counts of Reckless Injury with repeat offender enhancers. Class F felonies.

- H. What was your plea? (Check one)

☐ Not guilty ☒ Guilty ☐ Insanity plea ☒ Nolo contendere (no contest)

If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

N/A

- I. If you went to trial, what kind of trial did you have? (Check one)

☐ Jury ☐ Judge only

SUBJECT OF THIS PETITION - continued

J. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☐ Yes

☒ No

If yes, state the type(s) of hearing or proceeding

II. DIRECT STATE APPEAL OF CONVICTION

A. Did you appeal from the judgment of conviction?

☒ Yes

☐ No

If yes, attach the decision(s) that resolved your appeal and answer the following questions:

1. Date of filing appeal 01/22/2021

2. Grounds raised Failing to establish defendant's knowledge of the nature of his charges.

3. Result Affirmed

4. Date 12/29/20

B. Did you seek further review by the highest state court?

☒ Yes

☐ No

If yes, attach the decision(s) that resolved your petition for review and answer the following questions:

1. Date of filing of petition for review _____

2. Grounds raised -Due Process for not a knowingly, voluntary, and intelligent plea.

Assistance of Counsel.

3. Result Affirmed

4. Date _____

DIRECT STATE APPEAL OF CONVICTION - continued

C. Did you file a petition for certiorari in the United States Supreme Court?

☐ Yes

☒ No

If yes, attach the decision(s) that resolved your petition for certiorari and answer the following questions:

1. Date of filing petition for certiorari _____

2. Grounds raised _____

3. Result _____

4. Date _____

III. STATE POST-CONVICTION RELIEF OTHER THAN DIRECT APPEAL

A. Other than the appeals listed above in Section II, have you previously filed any other state petitions, applications, or motions concerning **this** state judgment of conviction?

☒ Yes

☐ No

If yes, attach the decision(s) that resolved your application for state post-conviction relief and answer the following questions:

1. Name of court Wisconsin Appellate Court, District 1

2. Docket or case number 2016CF2689

3. Date of filing 1/22/21

4. Type of petition, application, or motion filed Motion for reconsideration and Response to No-Merit

5. Grounds raised Ineffective assistance of counsel and due process for not understanding the nature of charges against him.

6. Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes

☒ No

7. Result Affirmed

STATE POST-CONVICTION RELIEF OTHER THAN DIRECT APPEAL- *continued*

8. Date 2/8/21

9. Did you appeal to the highest state court having jurisdiction over the action taken on your first state petition, application, or motion?

☒ Yes ☐ No

B. If you filed a second petition, application, or motion, attach the decision and answer the following questions:

1. Name of court _____

2. Docket or case number _____

3. Date of filing _____

4. Type of petition, application, or motion filed _____

5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

7. Result _____

8. Date _____

9. Did you appeal to the highest state court having jurisdiction over the action taken on your second state petition, application, or motion?

☐ Yes ☐ No

C. If you filed a third petition, application, or motion, attach the decision and answer the following questions:

1. Name of court _____

2. Docket or case number _____

3. Date of filing _____

STATE POST-CONVICTION RELIEF OTHER THAN DIRECT APPEAL- *continued*

4. Type of petition, application or motion filed _____
5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?
☐ Yes ☐ No
7. Result _____
8. Date _____
9. Did you appeal to the highest state court having jurisdiction over the action taken on your third state petition, application, or motion?
☐ Yes ☐ No

IV. GROUND FOR RELIEF

For this petition, state **every** ground supporting your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. If you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (*use up*) your available state-court remedies on each ground on which you request action by the federal court.

Ground One THE DEFENDANT RECEIVED INEFFECTIVE ASSISTANCE OF COUNCIL FOR FAILING
TO RAISE AN ISSUE OF MERIT.

Supporting **FACTS** (*Briefly summarize the facts without citing cases or law.*)

Biarni's counsel failed to raise an issue of merit by not raising the issue of a rule 11 violation as well as

Wisconsin's requirement that the plea was knowingly, intelligently, and voluntarily made. Biarni's counsel

should have known to raise this clear and obvious issue of merit. This issue was stronger than the issue that

was raised or lackthereof. This constitutes deficient performance that falls below an objective standard of

GROUND FOR RELIEF - continued

reasonableness that prejudiced the defendant. The outcome would have been different because the defendant would have had his plea withdrawn.

If you did not exhaust your state remedies on Ground One, explain why.

The appellate court affirmed my response to the no-merit report after I filed a motion for reconsideration for my response to that report.

Ground Two THE DEFENDANT'S DUE PROCESS RIGHTS WERE VIOLATED WHEN THE COURT FAILED TO FULFILL FEDERAL RULE OF CRIMINAL PROCEDURE'S RULE 11'S REQUIREMENT.

Supporting **FACTS** *(Briefly summarize the facts without citing cases or law.)*

Biami did not understand the nature of the charges against him. The elements were never established in court and the correct range of punishment was not given. The court recited the wrong elements for the crimes in which he pled. Failing to know the correct range of punishment as well as the correct elements constitutes a showing of an involuntary plea. Biami's plea was not knowingly, intelligently, or voluntarily made. Biami's education level at the time of sentencing supports this reasoning as well.

The appellate court and supreme court affirmed Biarni's motion.

[illegible]

GROUND FOR RELIEF - continued

Ground Four _____

Supporting **FACTS** (*Briefly summarize the facts without citing cases or law.*)

If you did not exhaust your state remedies on Ground Four, explain why.

V. PRIOR FEDERAL CHALLENGES

- A. Have you previously filed any type of petition, application, or motion in a federal court regarding the state conviction that you are challenging in this petition?

☐ Yes

☒ No

If yes, attach the decision(s) that resolved your prior federal court challenge and answer the following questions:

1. Name of court _____

PRIOR FEDERAL CHALLENGES - continued

2. Docket or case number _____
3. Date of filing _____
4. Type of petition, application, or motion filed _____
5. Grounds raised _____

6. Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

7. Result _____

8. Date _____

9. Did you appeal the action taken on your first federal petition, application, or motion to a federal court of appeals?

☐ Yes ☐ No

If yes, attach the decision(s) that resolved your appeal and answer the following questions:

- a. Name of court _____
- b. Docket or case number _____
- c. Date of filing _____
- d. Type of petition, application, or motion filed _____
- e. Grounds raised _____

PRIOR FEDERAL CHALLENGES - continued

f. Result _____

g. Date _____

B. Did you file a petition for certiorari in the United States Supreme Court?

☐ Yes ☐ No

If yes, attach the decision(s) that resolved your petition for certiorari and answer the following questions:

1. Date of filing petition for certiorari _____

2. Grounds raised _____

3. Result _____

4. Date _____

VI. REPRESENTATION

A. Give the name and address of each attorney who represented you in the following:

1. At preliminary hearing Adam Essling on behalf of Michael Steinle.

2. At arraignment and plea hearing Michael Steinle

3. At trial Not applicable

4. At sentencing Michael Steinle

5. On direct appeal Christopher Sobiech

REPRESENTATION - continued

6. In any state post-conviction proceeding Pro se on the no-merit response as well as the motion
for reconsideration and petition for review.
7. On appeal from any ruling against you in a state post-conviction proceeding pro se

VII. REQUEST FOR RELIEF

State exactly what you want the court to do for you.

I want the court to overturn my conviction and restore the original charges against myself, or a reduction of

sentence via a sentence modification. Meaning run all charges pled to
concurrent!

VIII. DECLARATION UNDER PENALTY OF PERJURY

I, the undersigned, hereby declare under penalty of perjury that the foregoing information is true and correct.

Signed this 21st day of APRIL, 20 22.

Chaze Bionni
Signature of Petitioner

(Signature of lawyer, if any)

If you are signing the petition and are not the petitioner, state your relationship to the petitioner and explain why the petitioner is not signing this petition.

IX. CERTIFICATE OF INMATE MAILING - *Optional*

If you deposit your petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 in your prison/institutional/jail mailing system and attach first-class postage pre-paid, and complete and sign this statement, you will establish the filing date as the date of deposit in that mailing system.

I, the undersigned, hereby declare under penalty of perjury that I placed this petition for a writ of habeas corpus under 28 U.S.C. § 2254 in the prison/institutional/jail mailing system with prepaid, first-class postage on 4-22-22
(month, day, year)

Signed this 21st day of APRIL, 2022

Chaze Bionni
Signature of Petitioner